

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **SOUTHERN DISTRICT OF TEXAS**  
3                                   **HOUSTON DIVISION**

4   UNITED STATES OF AMERICA           \*           4:16-CR-3  
5   VS.                                   \*           Houston, Texas  
6   OMAR FARAJ SAEED AL HARDAN       \*           10:06 a.m.  
   \*           December 18, 2017

7  
8                                   **SENTENCING**

9                                   **BEFORE THE HONORABLE LYNN N. HUGHES**  
10                                   **UNITED STATES DISTRICT JUDGE**

11 **APPEARANCES:**

12 **FOR THE GOVERNMENT:**

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1 THE COURT: Thank you. Please be seated.

2 Good morning.

3 United States of America versus Omar Faraj  
4 Saeed Al Hardan.

10:06:38

5 MR. IMPERATO: Good morning, Your Honor.

6 Ted Imperato and Carolyn Ferko for the United States.

7 THE COURT: Good morning.

8 MR. IMPERATO: Good morning.

9 MR. ADLER: Good morning, Your Honor. David

10:06:45

10 Adler for Mr. Al Hardan, who is present in the courtroom.

11 THE COURT: And who else do you have?

12 MR. IMPERATO: Carolyn Ferko. This is Jeff

13 Anderson, he's the Special Agent that worked on the case.

14 And that's Loraine Smith who also works with the FBI.

10:07:03

15 She's the lead analyst in this case.

16 THE COURT: Thank you.

17 MR. IMPERATO: Thank you, Judge.

18 THE COURT: Did I get additional cases from  
19 you?

10:07:19

20 MR. ADLER: No, Your Honor.

21 THE COURT: Would you raise your right hand,  
22 please.

23 Do you solemnly swear that the testimony

24 you will give will be the truth, the whole truth, and

10:07:34

25 nothing but the truth?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Have you had plenty of time to  
3 talk to Mr. Adler about what we're doing here today?

4 THE DEFENDANT: Yes, Your Honor.

10:07:52

5 THE COURT: Is there any new data from the  
6 government, other than the stuff that was filed?

7 MR. IMPERATO: Your Honor, on Friday  
8 afternoon, we provided to Mr. Adler and your staff press  
9 releases from the cases that you -- you requested that we

10:08:14

10 provide you, along with a spreadsheet, of the traveler  
11 cases. And these are the cases where individuals just like  
12 Mr. Al Hardan were arrested in the United States before  
13 they got on a plane and traveled over to fight.

14 There were 29 total, but we removed four  
15 because we learned that they received cooperation, and we  
16 didn't want to provide their names.

10:08:32

17 THE COURT: Some were charged with other  
18 things.

19 MR. IMPERATO: Some were, but they were all  
20 charged with 2339B or 2332A, but they're all considered  
21 traveler cases, individuals that were preparing to go,  
22 preparing training in the United States, and then wanted to  
23 go over but were arrested before leaving the United States.

10:08:46

24 THE COURT: My grandfather was from  
25 Minnesota. There are a lot of cases from Minnesota.

10:09:10

1 MR. IMPERATO: There are, yes.

2 THE COURT: He was a foreigner. He was a  
3 Canadian.

4 Any other data?

10:10:05 5 MR. ADLER: Nothing, other than what's in my  
6 objections, Your Honor, and the cases that I listed in my  
7 objections.

8 THE COURT: All right. The Court is going  
9 to sustain the defense objection to the 12 point addition  
10:10:30 10 to the criminal history under the guideline calculations  
11 for being yourself. I looked at the cases and I'm not  
12 persuaded that that is a substantial distinction that any  
13 of them make.

14 The whole purpose of the guidelines was to  
10:10:57 15 bring rationality, and overt rationality to sentencing I'm  
16 not convinced being a pre-guideline person that we did it  
17 irrationally then, but we have almost a mechanical process  
18 now. But the Court concludes that if you charge someone  
19 with attempted terrorism, you have to have done something,  
10:11:31 20 or it's not an attempt. And so, that will make your  
21 guideline range 26, plus two, minus three. 26 for those  
22 of you who aren't immersed in the culture is what it's  
23 called.

24 MR. ADLER: 26 or 25?

10:11:55 25 MR. IMPERATO: 26.

1 MR. ADLER: 26, plus 2.

2 MR. IMPERATO: Is 28.

3 MR. ADLER: Minus three.

4 MR. IMPERATO: No.

10:12:03 5 THE COURT: 26, plus 2 is 28, minus 3 is 25.

6 MR. ADLER: Okay.

7 THE COURT: Which would make the guideline

8 range 57 to 71 months. We have discussed the nature of

9 this offense, the statute and the guidelines quite

10:12:34 10 thoroughly. And you've briefed it very well.

11 Is there anything you want to add.

12 MR. IMPERATO: Yes, Judge.

13 THE COURT: All right. You're going to have

14 to speak up. Those nice people are way back there.

10:12:45 15 MR. IMPERATO: Judge, we would object. We  
16 believe that this is a terrorism enhancement. We believe  
17 that it applies under 3A1.4 (a) and (b). We believe that  
18 it's a felony involving a federal crime of terrorism. It's  
19 not -- while it may be --

10:13:00 20 THE COURT: Attempted terrorism is a felony.

21 MR. IMPERATO: It is, Judge. And, also, we  
22 provided case law, while it is a Second Circuit case that  
23 says that attempted, attempting to provide material support  
24 is a federal crime of terrorism that could be considered

10:13:16 25 under 3A1.4.

1 We would also argue that also the offense  
2 included that the defendant calculated to retaliate  
3 against the United States Government. We believe the  
4 evidence supports that. And that while this may be, the  
5 Court says that it's double counting, we'd argue that it  
6 is permissible double counting because it is not precluded  
7 under the statute or the guidelines.

8 So, based on that, we would object, Judge.

9 THE COURT: Objections are overruled.

10 Mr. Adler?

11 MR. ADLER: Do I dress the Court's decision?

12 THE COURT: THE COURT: Well, I just ruled  
13 in your favor. I wouldn't address them.

14 MR. ADLER: I prefer not to say anything.

15 THE COURT: If you can convince me of the  
16 opposite fairly quickly.

17 MR. ADLER: I have nothing to add to your  
18 decision, Judge.

19 THE COURT: On anything else?

20 MR. ADLER: Just if I could speak briefly on  
21 Mr. Al Hardan's behalf?

22 THE COURT: Sure.

23 MR. ADLER: Judge, this case came about  
24 because Mr. Al Hardan made some very bad decisions.

25 There's no dispute about that. But the context in which he

1 made those decisions I think is important.

2 He led a very isolated life here the in  
3 the United States. He was not aware of just how fortunate  
4 he was to be in a country like this. He had very little  
10:14:33 5 contact outside his family, very little contact, frankly,  
6 with English-speaking Americans. And that led him to  
7 believe a lot of things that he saw online that he no  
8 longer believes.

9 One of the strange ironies of this case is  
10:14:50 10 that the Court detained Mr. Al Hardan several months back.  
11 And although he's been in custody and the people that he's  
12 been hanging around with are not people perhaps we prefer  
13 he hang around with, he has come to develop quite an  
14 appreciation for the United States. He recognizes how  
10:15:08 15 fortunate he and his family who have been accepted as  
16 refugees in this country.

17 While he's been in custody, I've provided  
18 the Court with certificates, the classes that he's been  
19 taking. He's trying to improve his skill set so that when  
10:15:23 20 he gets out he can provide for his wife and young son. I  
21 know he's been very, very anxious because the Court -- for  
22 several months now. He's written out a statement. I  
23 think he's quite nervous today.

24 I would just ask the Court to consider  
10:15:35 25 sentencing within the guideline range. I'll leave it up

1 to the Court. Mr. Al Hardan recognizes he's going to  
2 spend many years in prison because of his poor decisions,  
3 but I do think he's turned away forever from his belief  
4 that going overseas to help a prohibited organization like  
10:15:53 5 ISIS was a smart idea. And, by the way, his family is  
6 very support of him. They did not want to come down today  
7 because of the media attention on the case. But his  
8 mother and father and his wife are still a good support  
9 system for Mr. Al Hardan.

10:16:13 10 THE DEFENDANT: Thank you, Your Honor, for  
11 giving me a chance to speak. I have a bad moment, Your  
12 Honor. Because of that, I wrote everything I need to say  
13 to you, Your Honor, from my heart on paper.

14 First, I want to apologize to you, Your  
10:16:27 15 Honor, with much remorse about the wrongs I have done. I  
16 apologize to the government of the United States. I  
17 apologize to my family who suffered a lot while my absence  
18 especially my parents, because I was the only one who was  
19 taking care of them. They were living with me. They miss  
10:16:42 20 my care to them they sad about what happened to me.

21 Your Honor, I lost one of my sisters. She  
22 was crying a lot when she saw me handcuffed on TV. Two  
23 weeks after I got arrested, she died with a stroke. My  
24 family did not tell me about her death until past one  
10:16:59 25 year.



1                   Your Honor, I would like to mention some  
2 points to you to put it in your consideration before you  
3 decide the sentence. It's only to put it in your  
4 consideration, Your Honor. First, that I have a son. He  
10:17:10 5 will be in school in about three years. He needs his  
6 father's support. He is sick. We just found water in his  
7 head. I am not a bomb maker, Your Honor, and I have no  
8 experience with electronics. I have them just to have  
9 them because I love them, but I don't want them no more.  
10:17:27 10 The special agent bomb technician said the items purchased  
11 by Al Hardan are used to build electronic circuits while  
12 many of the circuit components were benign, not harmful.  
13 Also, he said Al Hardan has little or no electronic  
14 background.

10:17:41 15                   THE COURT: A pistol is benign until you  
16 point it at somebody and pull the trigger. All that stuff  
17 can be neutral. Cellphones, other than annoying you to  
18 death, aren't necessarily a vicious weapon, but it can be  
19 converted. How many cellphones did you have?

10:18:03 20                   THE DEFENDANT: I have only one, Your Honor.

21                   THE COURT: How many did you have in your  
22 closet?

23                   THE DEFENDANT: About six to 12, as I heard.

24                   THE COURT: Is that right?

10:18:12 25                   MR. IMPERATO: Judge, I've got a picture of

1 it. Other than the cellphone he had, they recovered five  
2 cellphones.

3 **(Defendant conferring with Mr. Adler)**

4 MR. ADLER: Can he continue, Judge, or --

10:18:35 5 THE COURT: Please.

6 THE DEFENDANT: I did not plan to attack  
7 anyplace or plan to hurt someone, Your Honor. And this is  
8 not only my statement, it is the FBI statement also, Your  
9 Honor. They said there was never any active or plan plot  
10:18:54 10 targeting a specific location in Houston or elsewhere.

11 Your Honor, the informant, he is the one  
12 who brought the idea that he wanted to put a bomb in  
13 either Sharpstown or Galleria Mall. Not me.

14 And, also, the idea to blow it up with a  
10:19:06 15 cellphone was his, not my idea.

16 THE COURT: Did you tell him, "Absolutely  
17 not. I'm not even considering anything like that"?

18 THE DEFENDANT: I didn't agree, Your Honor,  
19 about the idea that he came up with --

10:19:18 20 THE COURT: Did you vehemently dissociate  
21 yourself from that suggestion?

22 **(Defendant conferring with Mr. Adler)**

23 MR. ADLER: Obviously, Judge, he should have  
24 left the informant as soon as this came up. I think we all  
10:19:37 25 know he did not. He recognizes that.

1 THE COURT: He didn't do it. I know. And  
2 did you take video courses in bomb making and circuitry for  
3 detonating bombs? Did you talk a lot about road bombs? I  
4 think that was the expression you said.

10:19:55

5 THE DEFENDANT: Yes, sir. It's only one  
6 time, Your Honor, I was seeing on YouTube. One time I just  
7 said for curious how to, about cellphone and something like  
8 this, trigger, but I didn't follow up with how to do it  
9 exactly. It was only one time, Your Honor, I seen it, and  
10 I never seen anything or tried to do what they do exactly.

10:20:12

11 **(Defendant conferring with Mr. Adler)**

12 THE DEFENDANT: Your Honor, I'm not trying  
13 to make any excuses for what I've done, but this is just  
14 kind of truth of the FBI statements about what done about  
15 the electronics that I have no experience and I didn't plan  
16 to hurt nobody, Your Honor. And the reason which made me  
17 mention that is because it talks about bomb and people, and  
18 I must clear that, Your Honor, before your judgment  
19 decision.

10:20:37

20 I already pled guilty and I'm very sad I  
21 should not because I should not have done what I have  
22 done, and I'm wrong, Your Honor.

10:20:50

23 THE COURT: What did you do? You spent the  
24 last several minutes telling me what you didn't do. What  
25 did you do?

10:21:05

1                   **(Defendant conferring with Mr. Adler)**

2                   THE DEFENDANT: Your Honor, I attempted to  
3 support the terrorists organization.

10:21:16

4                   THE COURT: And how did you do it exactly?  
5 I want to know precisely.

6                   THE DEFENDANT: Yes, Your Honor. I was  
7 discussing with him if arrived, if I had arrived there  
8 and --

9                   THE COURT: Who "him"?

10:21:25

10                  THE DEFENDANT: To the informant of the  
11 government. So I was discussing if I arrived there, what  
12 position they going to put me on, and what we going do  
13 there. Like discussions.

10:21:45

14                  So I'm wrong, Your Honor, and I was a  
15 foolish, a silly person feeling too comfortable and take  
16 everything easily.

10:21:59

17                  Your Honor, I'm asking for your  
18 forgiveness. I'm sorry. Please forgive me and give me a  
19 chance. I have been in jail for 23 months. I have  
20 changed 360 degrees, Your Honor. And I will never involve  
21 in any illegal things. I promise you that, Your Honor.

22                  THE COURT: You changed 360 degrees, you're  
23 back where you started, and that's what worries me.

24                  MR. IMPERATO: I think he --

10:22:11

25                  MR. ADLER: He used the idiom incorrectly,

1 Judge.

2 THE COURT: I know.

3 THE DEFENDANT: Your Honor, I also facing  
4 another --

10:22:18 5 THE COURT: Like lawyers, they say things  
6 and don't think them through.

7 THE DEFENDANT: Your Honor, I also facing  
8 another custody with the Immigration for deportation. I  
9 hopefully stay in the United States, but most likely I'll

10:22:32 10 be deported. Please, Your Honor, what I said --

11 THE COURT: Why will you be deported?

12 THE DEFENDANT: I might be deported.

13 THE COURT: Why would you be deported?

14 THE DEFENDANT: Because I have a green card  
10:22:42 15 and I committed a crime.

16 THE COURT: Did you lie to the State  
17 Department on your application for a passport and  
18 naturalization, whatever it was?

19 THE DEFENDANT: I was an --

10:22:54 20 THE COURT: Did you, yes or no?

21 **(Defendant conferring with Mr. Adler)**

22 THE DEFENDANT: Yes, Your Honor. Yes, I was  
23 in association with terrorists, Your Honor.

24 THE COURT: You lied to the government

10:23:10 25 trying to get naturalization papers --

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: -- because you needed --

3 THE DEFENDANT: I'm sorry.

4 THE COURT: -- a passport.

10:23:20 5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: So you could go someplace else  
7 and "cut off heads." That's a quote.

8 **(Defendant conferring with Mr. Adler)**

9 THE DEFENDANT: Your Honor, I was foolish.

10:23:36 10 I'm sorry about that. Yes, I did this. Yes, Your Honor.

11 I told them when I get the passport, yes, I might go to --  
12 I'd go to Syria or something, but after that I just backup  
13 on that decision, Your Honor.

14 THE COURT: Right.

10:23:46 15 THE DEFENDANT: Yes.

16 THE COURT: Like getting the worst combat  
17 training film I've ever seen.

18 THE DEFENDANT: Yes, Your Honor. We went --  
19 I'm sorry.

10:23:59 20 THE COURT: Did the government get it's  
21 money back? I'm not going to punish you for this. Did you  
22 hold a pistol to your son's head in an argument with your  
23 wife and mother, as I recall?

24 THE DEFENDANT: That's not true, Your Honor.

10:24:28 25 It was my brother. That picture is not from me, Your

1 Honor. That gun is not mine. It's for my brother. I seen  
2 that picture. It's not me. That's for my brother, he was  
3 joking with the kid.

10:24:43

4 THE COURT: That's not joking. What did you  
5 do when you're --

6 THE DEFENDANT: It's not me, Your Honor.

7 THE COURT: You called it "joking." That's  
8 the problem.

9 **(Defendant conferring with Mr. Adler)**

10:24:54

10 THE DEFENDANT: I was in Houston, Your  
11 Honor. He was in Dallas.

12 THE COURT: Where were you when that picture  
13 was taken?

10:24:59

14 THE DEFENDANT: Yes, Your Honor. I was in  
15 Houston and he was in Dallas. I wasn't with him.

16 THE COURT: And what did you say to your  
17 brother about of that?

10:25:12

18 THE DEFENDANT: I never seen that picture,  
19 only here, Your Honor. I'm surprised. And that's not  
20 correct, Your Honor. He should not have been there.

21 MR. ADLER: The relationship Mr. Al Hardan  
22 has with his brother has been a very rocky relationship.  
23 They've had some very serious disagreements when they've  
24 been in the United States.

10:25:26

25 THE COURT: So he left the child in the

1 custody of a brother that he didn't trust?

2 MR. ADLER: That's correct, Your Honor, but  
3 that did not happen anymore.

10:25:41

4 THE COURT: And in the other countries where  
5 you lived, did you ever have an air-conditioned apartment?

6 **(Defendant conferring with Mr. Adler)**

7 THE DEFENDANT: The best life I ever lived,  
8 Your Honor, in the United States.

10:26:02

9 THE COURT: Answer my question, please.

10 You're not a lawyer. You have to answer the question.

11 THE DEFENDANT: Is there air-conditioning,  
12 Your Honor?

13 THE COURT: Did you ever, in any of the  
14 other countries, live and an air-conditioned apartment?

10:26:14

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Did you ever have a cellphone in  
17 other countries?

18 THE DEFENDANT: Yes, Your Honor.

10:26:55

19 THE COURT: If I remember correctly, in your  
20 statement of acceptance, you said you're sorry you confided  
21 in an undercover agent.

10:27:12

22 MR. ADLER: Some of this, Judge, has to do  
23 with his English ability. You can check again, but he's  
24 sorry that he ever got associated and involved and  
25 continued to meet with this guy for several reasons.



1 THE COURT: But he got associated with him  
2 voluntarily for combat training. Wasn't that the same guy?

3 THE DEFENDANT: Yes, Your Honor. I asked  
4 the informant if that is possible so I can use a weapon.

10:27:33 5 THE COURT: And what have you done for a  
6 living?

7 THE DEFENDANT: I'm a limo driver, Your  
8 Honor, and a state inspector, license for vehicles.

9 MR. ADLER: Emissions inspections shop.

10:27:48 10 THE COURT: In any country where you used to  
11 live, were your parents on welfare?

12 **(Defendant conferring with Mr. Adler)**

13 THE DEFENDANT: Yes, Your Honor. We was  
14 receiving assistance. We was in bad situation.

10:28:04 15 THE COURT: You were in refugee camps?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: You weren't in air-conditioned  
18 apartment on welfare?

19 THE DEFENDANT: No, Your Honor.

10:28:12 20 THE COURT: It was support rather than cash?

21 THE DEFENDANT: No. Right here, Your Honor.

22 MR. ADLER: I asked Mr. Al Hardan if it was  
23 better for his parents in the United States or over there.  
24 That's why he answered "right here."

10:28:30 25 THE DEFENDANT: Right here.

1 THE COURT: Anything else you want to tell  
2 me?

3 THE DEFENDANT: Yes, Your Honor. I just  
4 want to say I'm very sorry. I'm not trying to prove or say  
10:28:38 5 I'm innocent, no, Your Honor. I'm guilty. And I apologize  
6 to the government of the United States, and I'm just asking  
7 for another chance, Your Honor. I was just taken -- I was  
8 feeling too comfortable outside, take everything easily.  
9 So I just please give me a chance, Your Honor, just because  
10:28:50 10 I have a kid. And I'm sorry for that. I apologize to the  
11 United States, Your Honor.

12 THE COURT: You had a kid when you did it.

13 THE DEFENDANT: Yes, Your Honor, yes. But I  
14 have a newborn. It was newborn.

10:29:07 15 THE COURT: Theoretically, you don't get  
16 somebody pregnant unless you're expecting to have a kid and  
17 think you want to keep one for, in my case, up to 56 years  
18 so far. It's a permanent condition. Start slow.

19 Were there manuals in your closet in the  
10:29:39 20 apartment?

21 **(Defendant conferring with Mr. Adler)**

22 THE DEFENDANT: I don't believe so. No,  
23 Your Honor, I don't have.

24 THE COURT: There weren't manuals on  
10:29:55 25 circuits? And what else?

1 MR. IMPERATO: There were manuals on  
2 circuitry and military manuals on electronic circuitry as  
3 well.

4 THE DEFENDANT: I don't know about the  
10:30:05 5 military, Your Honor, but I ordered CDs for how to learn  
6 how to do build up circuits from online. But because it  
7 was my English bad, so I just, I bought it but I didn't  
8 look at it. But, yes, Your Honor, I had the -- I had the  
9 instructions.

10:30:18 10 THE COURT: But there were actual physical  
11 manuals, too, weren't there?

12 MR. IMPERATO: Yes. Books.

13 THE COURT: Check with the agent.

14 MR. IMPERATO: CDs, Judge. They were on  
10:30:38 15 CDs.

16 THE COURT: How many CDs roughly.

17 CASE AGENT: Two different manuals. One was  
18 a Navy manual, I believe, on electronic circuitry, and the  
19 other was a general manual on circuitry.

10:31:00 20 THE COURT: Whose pistol is that that was in  
21 the picture?

22 THE DEFENDANT: My brother. My older  
23 brother.

24 THE COURT: All right. Anything else?

10:32:06 25 THE DEFENDANT: I'm sorry again, Your Honor.

1 MR. ADLER: No, Your Honor. Thank you.

2 THE COURT: Anything else?

3 MR. IMPERATO: Yes, Judge. Judge, we're  
4 going to be requesting a sentence of 240 months, a lifetime  
10:32:15 5 term of supervised release. We're asking for an upward  
6 variance because this defendant deserves it. As you  
7 pointed out several times, in 2009, this defendant and his  
8 family came to this country. They obtained legal permanent  
9 resident status. By 2011, they reaped all the benefits of

10:32:33 10 coming to this country -- food stamps, medical aid,  
11 financial aid. He had productive jobs, he was a delivery  
12 man, he was a state inspector, Uber driver. He got  
13 married, had a child. Had all these benefits, and then --

14 THE COURT: Also had a period where he was  
10:32:51 15 paid to take care of his parents, right?

16 MR. ADLER: Right.

17 MR. IMPERATO: Yes.

18 THE COURT: By Medicare or somebody?

19 THE DEFENDANT: Yes, Your Honor.

10:33:00 20 MR. IMPERATO: And then within a year of  
21 become a legal resident, permanent resident, he starts  
22 talking to terrorist organizations. He just mentioned  
23 ISIL, but that was before he was talking to the  
24 confidential informant. Before he even met the  
10:33:12 25 confidential informant we have all the Facebook

1 conversations between this defendant and three known  
2 terrorists with Al-Nusrah Front. And that has been  
3 completely ignored in this hearing by this defendant where  
4 he talks about going over there fighting jihad, killing  
5 Americans, getting training, helping Mr. Aws go over there  
6 and get his passport, to go over there, in which he did go  
7 over and fight. In fact, he talked about executing three  
8 people while he was over there. This defendant was  
9 involved in those conversations. Then he gets --

10 THE COURT: To be clear, the other guy  
11 killed three people.

12 MR. IMPERATO: The other guy killed three  
13 people. He wanted to go over and fight with them, he  
14 wanted that guy's arrangement to go over. He helped make  
15 the travel arrangements to go over there. And then he  
16 fills out the I-131. He gets his travel papers. He's  
17 ready to go, but he doesn't go because they lose contact.  
18 Whether those guys were killed or Mr. Aws comes back to the  
19 United States. We don't know. We know, but he doesn't  
20 know.

21 Then he starts buying electronic  
22 circuitry. We don't know why he's buying electronic  
23 circuitry, but that's why the FBI introduced the  
24 confidential human source to him. He's buying before he's  
25 meeting him to become a human resource. We introduced the

1 human source to him so we can figure out what he's doing,  
2 and then we find out what he's doing because he tells us.  
3 And like he said, he wants to build electronic circuitry.  
4 You see in the pictures where he comes and shows on  
10:34:35 5 November on 20th, he shows the confidential source what  
6 he's building, and what it's going to do, and how it's  
7 going to kill soldiers. He's talking about that. This,  
8 again -- and also the training. He's saying like he only  
9 went training once. That's not true. He said that he  
10:34:48 10 used to go training by himself. He only went training  
11 with the confidential human source once with a fully  
12 automatic weapon. But he also talks about the time that  
13 he went to the range and shot and prepared to go over  
14 there on his own before he met the confidential human  
10:35:02 15 source.

16 The Dallas plot, he talks about, well, it  
17 was all the CHS's idea. No, it wasn't. It was his. He  
18 planned the Dallas attack. He needs to think about it.  
19 And why he didn't commit any attacks in the United States?  
10:35:18 20 He told us, because he couldn't find the weaponry to do  
21 it. And he knew that he could get it over there, and  
22 that's why he wanted to go.

23 And, Judge, he talks about the videos. He  
24 did -- we did present the one video which is *Learn How The*  
10:35:35 25 *Explosion of Bombs Mobile Phone 2 of 2*. That means that

1 he observed 2 of 2 in November. But then he tells the  
2 confidential human source, "I used to see the brothers. I  
3 used to watch videos of their workshops. They put it on  
4 the computer." He says that.

10:35:53

5 And then you're correct, Judge. Why did  
6 he want that passport? Why didn't he travel? Because he  
7 needed his U.S. citizenship. He needed his U.S.  
8 citizenship. He filled out the N-400 falsely. There were  
9 multiple lies on that form, and he wanted that, why? So

10:36:08

10 he could travel and go over there.

11 We were never going to allow him to get  
12 his U.S. citizenship so he could get that passport to go  
13 over there. So we arrested him at that time.

14 I presented all these cases to you, Judge.

10:36:19

15 The counterterrorism section provided to us. If you  
16 average out -- and I would say that this defendant is  
17 worse than these individuals, because none of them, maybe  
18 one had to do with explosives. He's the only one that  
19 dealt with explosives. He's worse than them. But the

10:36:36

20 average of all of these, if you combine them, it's  
21 206.5 months. That's a 17-year average for them. And I  
22 think that he is more culpable than them. He has done  
23 worse than them. They had passports. Some of them were  
24 U.S. citizens, and we didn't let them travel. He was

10:36:54

25 waiting, and he was gone.

1 So, Judge, we ask for the upward  
2 departure. Look at the factors of 3553(a), and please,  
3 Judge, sentence this defendant to 240 months and a  
4 lifetime supervision so when he does come out, and if  
10:37:10 5 we're not able to deport him right away, your Probation  
6 Department can monitor him for the rest of his life,  
7 because he needs to be monitored. What he's saying is  
8 just words. Actions and when he doesn't know what people  
9 are saying, when he doesn't know he's being recorded,  
10:37:25 10 these are his true thoughts. This is after 23 months of  
11 sitting in a cage.

12 We ask you, Judge, 240 months. That's the  
13 right sentence for this defendant.

14 Thank you.

10:37:35 15 THE COURT: I'll take a 20-minute recess.

16 **(Recessed at 10:37 a.m.)**

17 THE COURT: Thank you. Please be seated.  
18 Anything else, Mr. Imperato?

19 MR. IMPERATO: No, Your Honor. Thank you.

10:59:09 20 THE COURT: Mr. Adler?

21 THE DEFENDANT: I'm sorry, Your Honor.

22 MR. ADLER: Nothing else, Your Honor.

23 THE COURT: First, I'll start with a  
24 cautionary note. Saying stupid, insane, even violent  
10:59:35 25 things on Facebook, or other social media, cannot be a



1 crime or we'd have to fill half the country with prisons.

2 It seems to be standard operating procedure.

3                   The flags in the closet that I said I  
4 think at the detention hearing of somebody. Was it him?

11:00:06

5                   MR. IMPERATO: Yes, Judge.

6                   THE COURT: That you're free to own in  
7 America an ISIS flag. You can have a British flag if  
8 really want to get ancient. And you can watch videos of  
9 how to make atomic bombs, as well as improvised electronic

11:00:32

10 devices. That's all well and good.

11                   We've had episodes in this country,  
12 especially World War I where a movie entitled *The Spirit*  
13 *of 1776* was sued in rem by the government. So the caption  
14 of the case is *The United States of America versus The*  
15 *Spirit of 1776*. And it was really destroyed because  
16 Mr. Wilson didn't like it. But in a stretch of  
17 imagination could have considered to have questioned the  
18 wisdom of our support of the British. That's what you do  
19 in a free country.

11:01:32

20                   There is all kinds of peripheral. Is your  
21 brother a permanent legal resident?

22                   THE DEFENDANT: Yes, Your Honor.

23                   THE COURT: The games you and your father  
24 played with blowing up toy airplanes and yelling Allau

11:02:00

25 Akbar, I'm not going to punish you for that. But that's an

1 indication of what you were thinking about, and none of it  
2 was new, none of it was impulsive.

3           What makes the case and an attempt is  
4 lying for a passport for naturalization for a passport so  
11:02:38 5 that you could in fact do what you needed to do under your  
6 plan of becoming a bomb maker to ISIS. And that's what  
7 you talked about: being a bomb maker. And you had some  
8 stuff that indicated you were serious about that. You  
9 weren't sitting around a bar saying you were going to be  
11:02:59 10 an astronaut next week.

11           Even though the guideline range is  
12 calculated to be 57 to 71, this case illustrates that  
13 there is no matrix on one side of an 8 1/2 x 11-inch paper  
14 that account for the varieties of human existence.

11:03:41 15           Mr. Hardan, what you planned and attempted  
16 to do was seriously illegal, and however inept you may  
17 have been at executing your plans, clumsy bomb makers,  
18 stupid planners, have killed a lot of people.

19           The Court is somewhat troubled by your  
11:04:29 20 equivocation this morning where while it was all  
21 undercover guy, he did talk too much, but you never  
22 dissociated yourself from him. In fact used him to set up  
23 the other stuff. So on the narrow grounds of planning,  
24 training, and then attempting to get a travel document you  
11:05:12 25 weren't entitled to, makes 16 years in prison the correct

1 sentence. That's 192 months. Plus a lifetime of  
2 supervised release. This is not an overreaction to what  
3 would you call it? The emotional and political context?  
4 It is a cold, rational, fully informed analysis. He can't  
5 hear you, ma'am. Get up and go talk to him.

11:06:10

6 MR. ADLER: It's okay, Judge. I think he  
7 just prefers to listen to you, Judge.

8 THE COURT: Okay. Of what you did and the  
9 laws that apply to it.

11:06:33

10 Anything else, Mr. Imperato?

11 MR. IMPERATO: Judge, per the plea  
12 agreement, we agree to no fine, and also agree to remit the  
13 hundred-dollar assessment.

14 THE COURT: Thank you. He has no means of  
15 paying it.

11:06:48

16 MR. IMPERATO: And then also, Judge, we'd  
17 move to dismiss the remaining counts as well.

18 THE COURT: The remaining counts are  
19 dismissed. Mr. Adler?

11:06:56

20 MR. ADLER: Nothing, Your Honor.

21 THE COURT: Do you have any questions,  
22 Mr. Hardan?

23 THE DEFENDANT: About the sentence, Your  
24 Honor. About the sentence, is that final, Your Honor, the  
25 sentence?

11:07:12

1 THE COURT: Well, it will be this afternoon  
2 or so when I sign the document. But you have the right to  
3 appeal, you have the right to appeal having a lawyer  
4 appointed for you and not paying fees. If you can't afford  
11:07:32 5 them, there's a statement about that. Please read it. If  
6 you understand it, sign it.

7 PROBATION OFFICER: Your Honor, would it  
8 please the Court to impose financial conditions and  
9 surrendering to ICE once he's needs to?

11:07:51 10 THE COURT: Financial what?

11 PROBATION OFFICER: Well, just financial  
12 disclosure, just so we can monitor his finances.

13 THE COURT: Once he gets out?

14 PROBATION OFFICER: Once he gets out.

11:07:56 15 THE COURT: Okay.

16 PROBATION OFFICER: And then also the  
17 deportation, that he needs to surrender to ICE once he's  
18 released from custody.

19 THE COURT: Is there an ICE Immigration  
11:08:09 20 detainer?

21 PROBATION OFFICER: There's not one right  
22 now, Your Honor. I don't know if there will be one, but we  
23 want to make that provision that he cooperate with ICE once  
24 he's released.

11:08:23 25 THE COURT: That acronym is too close to

1 ISIS.

2 PROBATION OFFICER: I'm sorry.

3 THE COURT: When you're released, among the

4 terms of your supervised release are that you report to

11:08:33 5 Immigration. See what they want to do with you. I think

6 you should be deported, but that's up to them. And you

7 will fully report your financial arrangements, including

8 any of those that are derived from your parents. And there

9 are a whole bunch of standard conditions. You obviously

11:09:03 10 won't be able to possess a firearm in Texas or under

11 federal law.

12 Anything else?

13 PROBATION OFFICER: No, Your Honor. That's  
14 it. Thank you.

11:09:16 15 MR. IMPERATO: Nothing from the government,  
16 Your Honor.

17 MR. ADLER: Nothing from the defense, Your  
18 Honor.

19 THE COURT: Thank you. We're adjourned.

11:09:22 20 **(Recessed at 11:09 a.m.)**

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**COURT REPORTER'S CERTIFICATE**

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I, Johnny C. Sanchez, certify that the foregoing is a  
correct transcript from the record of proceedings in the  
above-entitled matter.

/s/  
Johnny C. Sanchez, CRR, RMR

<b>/</b>	<b>Absolutely</b> <sup>[1]</sup> - 10:16	<b>arrested</b> <sup>[2]</sup> - 8:23, 23:13
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